



Feidhmeannacht na Seirbhíse Sláinte
Health Service Executive

Office of the National Director of Human Resources
Health Service Executive
Dr. Steevens' Hospital
Dublin 8

Tel: (01) 635 2319
Fax: (01) 635 2486
E-mail: nationalhr@hse.ie

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To: National Director, National Hospitals Office
National Director, Primary, Community and Continuing Care
National Director, Population Health
Each Assistant National Director, National Hospitals Office
Each Assistant National Director, Primary, Community and Continuing Care
Each Assistant National Director, Population Health
Each Assistant National Director of Human Resources
Each Hospital Network Manager
Each Chief Executive Officer, Voluntary Hospitals
Each Chief Executive Officer, Intellectual Disability Services
Each Chief Executive Officer, Specialist Agencies
Each Medical Manpower Manager

Re: Implementation of Recommendations of Report on The Prevention of Transmission of Blood Borne Diseases in the Health Care Setting

The Standing Advisory Committee on the Prevention of Blood Borne Diseases in the health care setting reported in 2006. The HSE has engaged with relevant staff associations on the implementation of the employment related measures contained in the report and following agreement on progression of same, the following measures are to be put in operation by employers:

New Employees

- 1 With effect from 7th July 2008, all new staff starting a post in the public health services, where they might be required to be involved in an exposure prone procedure (EPPs) will have to provide evidence via the occupational health service that they are immune to, and not infectious for Hepatitis B. In the absence of such evidence, a potential member of staff will not be employed in a post whose duties involves EPPs. No appointment should be made until the individual's immune status is established.
- 2 As of 7th July 2008, all new staff commencing in a post which involves EPPs should be tested for Hepatitis C.
New staff are defined as those staff entering the Irish public health system for the first time or those staff currently in the system but now transferring to or taking up employment in an area that involves EPPs e.g. a nurse undertaking midwifery or a medical intern taking up a post of Surgical Senior House Officer. (Appendix 2 refers).
A definition of exposure prone procedures (EPPs) is outlined in Appendix 3.

Existing Employees

- 3 With effect from 1st May 2009, all existing staff involved in EPPs must have a statement from the occupational health service confirming that they are non-infectious for and immune to Hepatitis B. If such a statement cannot be provided, any such individual will not be allowed to perform EPPs.
- 4 In circumstances where an employee is identified as being infectious with a blood borne virus, the process set out in Appendix 1 will be initiated. The purpose of this arrangement is to support and accommodate an employee who has been diagnosed as being infectious by seeking to offer redeployment, retraining or other support, as appropriate, in agreement with the individual.

5 Risk Management and Infection Control

The development of risk management and infection control strategies is essential for the prevention of blood borne pathogens in the health care setting. A separate letter in respect of this matter will issue shortly.

6 Helpline

A confidential helpline for health care staff will be developed to provide basic information and contact details in the event of exposure through contact with risk material. Details will be posted on the HSE website.

7 Staff Obligations

Professional codes of practice from regulatory bodies require health care workers who may have been infected with a serious communicable disease, in whatever circumstances, to promptly seek and follow confidential professional advice about the need to undergo testing. This requirement means that health care workers are under an ongoing obligation to seek professional advice about the need to be tested if they have been exposed to a serious communicable disease, obligating the need for repeat testing. This obligation equally applies to health care workers already in post.

8 Implementation

At this stage, the necessary internal consultative process to advance the implementation of the contents of this circular should commence. This will necessitate the involvement of personnel from human resources, recruitment, occupational health and medical manpower and should include the identification of the numbers and categories of staff who will be encompassed by these provisions and who will require to be tested in advance of the 1st May 2009 deadline, together with the putting in place of the appropriate mechanisms to ensure that this deadline is met.

Any enquiries with regard to the contents of this circular as it pertains to EPPs should be directed to the Occupational Health Department. Any other queries should be directed to the Human Resources Department.

Yours sincerely,



Sean McGrath
National Director of Human Resources

Appendix 1

Proposals for addressing employment related issues for staff diagnosed as carrying Hep B, Hep C or HIV, acquired in the workplace

CONTEXT

The proposals outlined are made in the context of, and in full compliance with, the recommendations of the Standing Advisory Committee on the Prevention of Transmission of Blood Borne Diseases in the health care setting, as outlined in the DOHC's Report of the same title...

These provisions seek to ensure that there is a co-ordinated and comprehensive approach to the prevention, identification and treatment of blood borne diseases and are designed to support those members of the health care team at risk of exposure to blood borne pathogens, including medical doctors, nurses / midwives and dentists.

This proposal applies to HCWs who do not have clearance to undertake exposure prone procedures (EPPs) due to being infective carriers of hepatitis B, hepatitis C or HIV. However, it should be understood that while there are in excess of 100,000 people employed in the public health services, only a fraction of this number will be engaged in exposure prone procedures. In addition, all available evidence suggests that the numbers of such staff who may be diagnosed are likely to be very minimal.

It is recognised that HCWs who become infected may need retraining, redeployment and/or a support package, whichever is most appropriate for and agreed with the individual. (In the event of a dispute the matter will be referred to the National Advisory Panel) In most jobs in the health service, restriction from performing EPPs can be facilitated allowing the health care worker to continue in post observing standard precautions etc. The extent of the facilitation and support of staff will depend on their job description/clinical practice.

DEFINITIONS

Exposure Prone Procedures

Exposure prone procedures are those invasive procedures where there is a risk that injury to the worker may result in the exposure of the patient's open tissues to the blood of the worker. They have been more precisely defined as procedures which involve surgical entry into tissues, cavities or organs or repair of major traumatic injuries, vaginal or Caesarean deliveries or other obstetric procedures during which sharp instruments are used; the manipulation, cutting or removal of any oral or perioral tissues including tooth structure, during which bleeding may occur. These include procedures where the worker's hands may be in contact with sharp instruments, needle tips or sharp tissues (e.g. spicules of bone or teeth) inside a patient's open body cavity, wound or confined anatomical space where the hands or fingertips may not be completely visible at all times. EPPs would not usually include giving injections, taking blood, setting up IV lines, minor surface suturing, and the incision of abscesses, routine vaginal or rectal examinations or uncomplicated endoscopies.

Work Categories: It is helpful to divide positions in three different categories:

Category 1: Staff performs exposure prone procedures.

Category 1(A) Staff may be excluded from practice if infected with a BBV because EPPs form an integral part of their work

Category 1 (B) staff will be asked to restrict certain aspects of their work that involve EPP but can continue in their profession.

Category 2: staff would be at risk of inoculation injuries but do not undertake exposure prone procedures.

Category 3: staff work in administration and are not exposed to blood or body fluids.

Reasonable Accommodation

All staff who have a disability are entitled to reasonable accommodation in the workplace in accordance with statutory legislation. Category 2 and 3 staff should not require reasonable accommodation. Category 1 staff may require either retraining or redeployment if they cannot be accommodated in their present post.

Co-Operation.

The operation of this agreement is dependent on the full co-operation of the individual staff member with any treatment programme, modification of working procedures, or retraining as deemed necessary by their treatment team and or co-operation with any look back exercise. The principal focus of employers will be, in the first instance, to maintain the individual in employment in their own post, albeit with certain restrictions to their normal range of duties in particular situations. Where this is not possible, the emphasis will be on the redeployment and retraining in a related field of expertise, where necessary, of affected staff.

Redeployment

The employing authority should make every effort to redeploy an infected health care worker within the same organisation where this is the most appropriate course of action for the employee. Where redeployment of an infected health care worker within a hospital or health care setting alters their job description/clinical practice, this must be agreed with the HCW. If a dispute exists, this will be discussed by the National Advisory Panel.

Retraining

For a health care worker at the beginning of his/her career, retraining is generally feasible. Because of the difficulties of accessing training programmes, the National Advisory Panel in liaison with the Training Bodies will ensure a place is available on an appropriate training scheme for the infected health care worker for the duration of the training. These positions would be ring fenced and would cease and return to the normal number of training posts once the infected health care worker has completed training. The health care worker will maintain his/her previous salary level and Terms and Conditions of Employment while undertaking retraining.

Vocational Rehabilitation

The restriction on performing exposure prone procedures is a medical restriction and not a functional limitation. Therefore, the emphasis is on vocational rehabilitation as opposed to sick leave, with a focus on retraining and re-employment to optimise the use of the skills and experience of the individual. It is recognised that some paid administrative leave may be required while such arrangements are being put in place, but it is not envisaged that the terms of the sick leave schemes should be invoked.

Treatment Costs

The cost of treatment arising from this infection and which is obtained in the public health service will be borne by the individual employer. GP, casualty and consultant visits and prescription charges, where relevant, will be reimbursed by the employer on presentation of invoice.

National Advisory Panel

It is agreed to establish a National Advisory Panel which will have not less than two meetings per annum. The panel will consist of three nominees from the employers' side and three nominees from relevant staff representative organisations. The panel will have an independent chairperson to be agreed between the parties.

The panel will proactively address the training and education requirements of infected individuals through liaison with employers and other appropriate bodies eg. medical colleges, training bodies, Dental Council, An Bord Altranais etc. It shall usually operate in circumstances where local efforts have been unsuccessful in facilitating the location or relocation of individuals for training and employment purposes. Its business shall be conducted with due regard for the need for confidentiality at all times.

The Terms of Reference of this Panel are as follows:

- To assist medical, nursing / midwifery, dentists and other staff, as required in the sourcing of and provision of appropriate training.
- To facilitate, by agreement, the retraining and where necessary, the redeployment of HCWs,.
- To liaise with individual and other relevant bodies which may assist in the process set out above.
- To address and recommend in circumstances where there are divergent views on how best to address individual cases.

Payment to Affected Staff

On confirmation that a staff member, following initial screening and diagnosis of Hep B, Hep C or HIV, and medical evidence being produced that this staff member needs to curtail clinical practice and is consequently unable to work, the following pay arrangements would apply for such staff.

- a) Full payment, inclusive of payments accruing for premiums and allowances for a period of six months.
- b) Salary paid in this circumstance will not affect an individual's normal entitlement under the sick pay scheme.
- c) During this six month period the staff member must comply with the co-operation procedures set out above.

First Special Extension

If it transpires before the end of the six month period outlined above, that the staff member is unlikely to be able to return to work at the end of this six month period or immediately thereafter, but there remains a reasonable expectation that the individual may return to work, a first special extension of pay under this scheme may be granted. The arrangements to apply during this period will be the same as those outlined above and will be approved by the Assistant National Director of

Human Resources or their equivalent in non HSE settings following recommendation from the Occupational Health Department and will not exceed a period of three months.

Second Special Extension of Pay

Notwithstanding the above, if it transpires, after medical evidence that a return to work is unlikely during this three month period or immediately thereafter, but there still remains a reasonable expectation that the individual will return to work, a further final extension may be granted. This special extension will provide for payment of basic pay only and this second extension will not exceed a period of three months.

Application of article 109 for a period

In exceptional circumstances, at the expiry of the special pay arrangements outlined, article 109 may be invoked for such period as the employer and occupational health department may consider reasonable. Any decision to apply Article 109 for such period will be dependent on the employee agreeing to undergo regular medical assessment as may be deemed appropriate.

Other Points

The proposals set out apply to staff that are liable for mandatory registration for superannuation purposes.

The proposals are independent of an individual's right to legal redress if they so desire.

The operation of these proposals may be reviewed at the request of either party within a period of not less than one year following operation of agreement.

Categories of HCW re BBV

For the purposes of this guidance, a new healthcare worker includes healthcare workers new to the Irish Health Care System, healthcare workers moving to a post or training that involves EPPs and returning healthcare workers, depending on what activities they have engaged in while away from the health service. This guidance is intended not to prevent those infected with blood-borne viruses from working in the HSE, but rather to restrict them from working in those clinical areas where their infection may pose a risk to patients in their care.

For the purposes of this guidance, a new healthcare worker is defined as an individual who has direct clinical contact with HSE patients. Existing healthcare workers who are moving to a post or training that involves exposure-prone procedures (EPPs) are also considered as 'new'. Returning healthcare workers may also be regarded as 'new', depending on what activities they have engaged in while away from the health service (see below).

Professional codes of practice from regulatory bodies require healthcare workers who may have been exposed to infection with a serious communicable disease, in whatever circumstances, promptly to seek and follow confidential professional advice about whether to undergo testing. Failure to do so may breach the duty of care to patients. This means healthcare workers are under an ongoing obligation to seek professional advice about the need to be tested if they have been exposed to a serious communicable disease, obviating the need for repeat testing. This obligation applies equally to healthcare workers already in post.

Additional health clearance is recommended for healthcare workers who will perform EPPs. It is not possible to provide a definitive list of types or specialties of healthcare workers who perform EPPs, because individual working practices may vary between clinical settings and between workers. (Annex A provides examples of EPPs).

Healthcare workers who are performing EPPs for the first time

Healthcare workers moving into training or posts involving EPPs for the first time should also be treated as 'new', and additional health clearance is recommended. This will include, for instance, senior house officers entering surgical or other specialties involving EPPs, qualified nurses wishing to train as midwives and post-registration nurses moving into work in operating theatres and accident and emergency for the first time.

Healthcare workers who are returning to the HSE and who may have been exposed to serious communicable diseases

The need for additional health checks for any particular healthcare worker who is returning to work in the HSE and who may have been exposed to serious communicable diseases while away should be based on a risk assessment. This should be carried out by the occupational health department. The timing of any tests should take account of the natural history of the infections (ie the 'window period'). Some examples of healthcare workers who might be considered 'returnees' include those returning from research experience (including electives spent in countries of high prevalence for BBVs), voluntary service with medical charities, sabbaticals (including tours of active duty in the armed forces), exchanges, locum and agency work or periods of unemployment spent outside of Ireland.